

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

JAMES M. MORRIS,)
v.)
Plaintiff,)) No. 3:11-cv-0916
TENNESSEE DEPARTMENT,)) Judge Sharp
OF CORRECTIONS, *et al.*,)) Magistrate Judge Griffin
Defendants.))

ORDER

Pro se Plaintiff James M. Morris filed a Complaint in the Chancery Court of Davidson County, Tennessee on August 9, 2011, against Defendants Tennessee Department of Corrections (“TDOC”) Commissioner Derrick Schofield, TDOC Assistant Commissioner Reuben Hodge, Charles Bass Correctional Complex (“CBCX”) Warden Dwight Barbee, and CBCX employees Michael Allen, William Marks, and Charles Atkinson¹, wherein he sought relief under 42 U.S.C. § 1983 for violations of his constitutional rights purported to have occurred during his confinement at the CBCX in 2011. This action was transferred to the United States Court for the Middle District of Tennessee on September 27, 2011. *See* (Docket Entry No. 1).

Pending before the Court is *Defendants Hodge, Schofield, Allen and Marks’ Motion to Dismiss* (Docket Entry No. 42).² Defendants have requested that the Court “dismiss the amended complaint against them for failure to state a claim and dismiss them as defendants from the case.” (*Id.* at 1). They claim that Plaintiff fails to make any allegations of personal wrongdoings against them in his amended complaint and, thus, has not shown a basis for claims

¹ Defendant Atkinson has not entered an appearance in this case.

² Subsequently, Defendant Dwight Barbee filed a motion for joinder. An Order was entered granting the motion on May 17, 2012. *See* (Docket Entry Nos. 86 and 89).

of individual liability against them under 42 U.S.C. § 1983. Plaintiff has filed a response in opposition to the motion. (Docket Entry No. 51).

Magistrate Judge Griffin entered a Report and Recommendation (“R & R”) (Docket Entry No. 94) in this case on August 22, 2012, concluding “[i]t is readily apparent from the context of [P]laintiff’s factual allegations and the attachments to his pleadings what roles the Defendants had in the alleged wrongdoings.” (*Id.* at 6). Therefore, recommending that “the motion to dismiss (Docket Entry No. 42) of Defendants Reuben Hodge, Derrick Schofield, Michael Allen, William Marks, and Dwight Barbee be DENIED and the Defendants be ORDERED to file answers in this action.” (*Id.* at 7). No objections have been filed to the R & R.

Where no objections are made to the R & R, “[t]he district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.” Fed. R. Civ. P. 72(b). Having thoroughly reviewed the record in this case and the applicable law in accordance with Rule 72(b), the Court will accept the R & R.

Accordingly, the Court hereby rules as follows:

- (1) The Report and Recommendation (Docket Entry No. 94) is hereby ACCEPTED and APPROVED;
- (2) The motion to dismiss (Docket Entry No. 42) of Defendants Reuben Hodge, Derrick Schofield, Michael Allen, William Marks, and Dwight Barbee is hereby DENIED; and
- (3) Defendants shall file answers in this action within twenty-one (21) days of entry of this Order.

This action is hereby returned to the Magistrate Judge for further pretrial management in accordance with Local Rule 16.01.

It is SO ORDERED.

A handwritten signature in black ink that reads "Kevin H. Sharp". The signature is fluid and cursive, with "Kevin H." on the top line and "Sharp" on the bottom line.

KEVIN H. SHARP
UNITED STATES DISTRICT JUDGE